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patent*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: JAMES A. TISCIONE

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TITLE: HIGH-CAPACITY CARD HOLDER AND EJECTOR

Commissioner for Patents
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I hereby certify that on this 9th day of January, 2007, this correspondence is being transmitted via EFS WEB to the United States Patent and Trademark Office, Attn: Examiner Tri M. Mai.

By: *Alice B. Vanicek*
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TO THE COMMISSIONER FOR PATENTS

BRIEF ON APPEAL

Dear Sir:

This is an appeal from the final rejection dated 18 October 2006.

US 2004/0255598

REAL PARTY IN INTEREST

The real party in interest is ACM Enterprises, Inc., the assignee of the entire right, title and interest in the above-identified application.

RELATED APPEALS AND INTERFERENCES

No related appeals or interferences are currently pending.

STATUS OF CLAIMS

Claims 1-18 originally were filed and have been rejected by the Examiner. Claims 5, 6, 14 and 15 are on appeal.

STATUS OF AMENDMENTS

Subsequent to final rejection, an amendment adding the limitations of the appealed dependent claims to each respective independent base-claim was filed with a Request for Reconsideration on 26 October 2006. However, this amendment was not entered per the Examiner's Advisory Action dated 07 November 2006.

SUMMARY OF CLAIMED SUBJECT MATTER

Claim 5 depends from claim 1, which describes a holder for a plurality of wallet-sized cards having a case (Fig. 1A, reference numeral 2; page 9, line 18) that includes a top piece and a bottom piece connected by two sidewalls and a rear wall (Fig. 1A, reference numerals 4 (top piece), 6 (bottom piece), 12 (sidewalls); Fig. 1B, reference numeral 28 (rear wall); page 9, line 18 through page 10, line 9) defining an interior cavity with an opening along an end of said case (Fig. 1A, reference numeral 9; page 9, line 19); a plurality of parallel slots being adapted to accommodate the wallet-size cards disposed within the side walls of the case (Fig. 1A, reference numeral 24; page 9, line 27); a plurality of parallel cut-out sections in the top piece of the case (Fig. 2, reference numeral 40; page 11, line 5); and a plurality of ejection tab assemblies, each assembly being adapted for slidable movement toward said opening of the case (Fig. 8, reference numeral 92; page 13, line 9) and including a U-shaped member having an end adapted to engage and dispense at least two cards housed in the parallel slots in the direction of the opening (Fig. 8, reference numeral 94; page 13, line 9), and a button (Fig. 8, reference numeral 96; page 13, line 10) connected to the U-shaped member through one of the plurality of parallel cut-out sections, with claim 5 adding the limitation of a notch being disposed along the end of the U-shaped member (Fig. 8, reference numerals 106 (end) and 108 (notch); page 13, lines 18-21), thereby forming two card engaging surfaces (Fig. 8, reference numerals 110 and 112; page 13, line 21).

Claim 6 depends from claim 5 and further specifies that the notch is disposed longitudinally across the end of the U-shaped member (Fig. 8, reference numerals 106 (end) and 108 (notch); page 13, lines 18-21) such that slidable engagement of the U-shaped member to a first point ejects a first card from the case while further slidable engagement of the U-shaped member

ejects a second card from the case (Fig. 9, reference numerals 122, 124, 126 and 128; page 14, lines 1-6).

Claim 14 depends from claim 10, which describes a holder for a plurality of wallet-sized cards having a case (Fig. 1A, reference numeral 2; page 9, line 18) that includes a top piece and a bottom piece connected by two sidewalls and a rear wall (Fig. 1A, reference numerals 4 (top piece), 6 (bottom piece), 12 (sidewalls); Fig. 1B, reference numeral 28 (rear wall); page 9, line 18 through page 10, line 9) defining an interior cavity with an opening along an end of the case (Fig. 1A, reference numeral 9; page 9, line 19); a plurality of parallel slots being adapted to accommodate the wallet-size cards and adapted to accommodate the wallet-size cards in direct slidable arrangement within the slots disposed within the side walls of the case (Fig. 1A, reference numerals 16 (card in direct contact with slot) and 24 (slot); page 9, lines 24-27); a plurality of parallel cut-out sections in the top piece of the case (Fig. 2, reference numeral 40; page 11, line 5); and a plurality of ejection tab assemblies, each assembly being adapted for slidable movement toward the opening of the case (Fig. 8, reference numeral 92; page 13, line 9) and including a U-shaped member having an end adapted to engage and dispense at least two cards housed in the parallel slots in the direction of the opening (Fig. 8, reference numeral 94; page 13, line 9), and a button (Fig. 8, reference numeral 96; page 13, line 10) connected to the U-shaped member through one of the plurality of parallel cut-out sections, with claim 14 adding the limitation of a notch being disposed along the end of the U-shaped member (Fig. 8, reference numerals 106 (end) and 108 (notch); page 13, lines 18-21), thereby forming two card engaging surfaces (Fig. 8; reference numerals 110 and 112; page 13, line 21).

Claim 15 depends from claim 14 and further specifies that the notch is disposed longitudinally across the end of the U-shaped member (Fig. 8, reference numerals 106 (end) and 108 (notch); page 13, lines 18-21) such that slidable engagement of the U-shaped member to a first point ejects a first card from the case while further slidable engagement of the U-shaped member

ejects a second card from the case (Fig. 9, reference numerals 122, 124, 126 and 128; page 14, lines 1-6).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The sole ground of rejection to be reviewed on appeal is that of claims 5, 6, 14 and 15 under 35 USC 103(a) over U.S. Patent No. 6,412,627 to Tiscione et al. in view of U.S. Patent No. 6,648,038 to Vetter.

ARGUMENTS

Re: Claims 5 and 14

The Examiner finally rejected claims 5, 6, 14 and 15 under 35 U.S.C. 103(a) as being unpatentable over Tiscione et al. (U.S. Patent No. 6,412,627) in view of Vetter (U.S. Patent No. 6,648,038). The Appellant respectfully submits that there is nothing in the combination of these references that discloses or suggests a ejection assembly structure wherein a "notch is disposed along said end of the U-shaped member, thereby forming two card engaging surfaces," as recited in claims 5 and 14.

Indeed, the "step arrangement" cited by the Examiner in the Vetter reference merely describes pockets in a wallet that have nothing to do with an ejection tab assembly. Accordingly, it is unknown how one skilled in the art would be motivated by Vetter's pockets to modify the ejection tab assemblies of the Tiscione et al. reference to specifically include a notch structure as claimed. Hence, these claims cannot be rendered obvious by the cited art.

Re: Claims 6 and 15

As stated above for claims 5 and 14, there is nothing in the references cited by the Examiner that discloses or suggests a ejection assembly structure having a notch that is disposed along its end to form two card-engaging surfaces. Furthermore, there is nothing in the combination of these references that discloses or suggests an ejection assembly structure "wherein said notch is disposed longitudinally across the end of the U-shaped member such that slidable engagement of said member to a first point ejects a first card from said case while further slidable engagement of said member ejects a second card from said case," as recited in claims 6 and 15. Accordingly, these claims cannot be rendered obvious by the cited art.

In view of the foregoing, it is respectfully requested that the rejection of the claims be reversed in its entirety. Should the Board find in favor of patentability for claims 5, 6, 14 and 15, the Appellant requests that the amendment to the claims submitted on 26 October 2006 be entered so that the limitations of the appealed dependent claims are written into each respective independent base-claim.

Respectfully submitted,



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CLAIMS APPENDIX

5. The holder of claim 1, wherein a notch is disposed along said end of the U-shaped member, thereby forming two card engaging surfaces.
6. The holder of claim 5, wherein said notch is disposed longitudinally across the end of the U-shaped member such that slidable engagement of said member to a first point ejects a first card from said case while further slidable engagement of said member ejects a second card from said case.
14. The holder of claim 10, wherein a notch is disposed along said end of the U-shaped member, thereby forming two card engaging surfaces.
15. The holder of claim 14, wherein said notch is disposed longitudinally across the end of the U-shaped member such that slidable engagement of said member to a first point ejects a first card from said case while further slidable engagement of said member ejects a second card from said case.

EVIDENCE APPENDIX

References relied upon by the Examiner in the final rejection of the claims:

1. U.S. Patent No. 6,412,627 to Tiscione et al.
2. U.S. Patent No. 6,648,038 to Vetter.